

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ARTHUR JOHNSON,

Plaintiff,

Case No. 96-cv-74996
Judge Denise Page Hood

v.

JAMES FREEBURN,

Defendant.

ORDER ACCEPTING AND ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on Magistrate Judge Steven D. Pepe's Report and Recommendation [**Docket No. 170, filed Aug. 3, 2009**]. Neither party has filed an objection and the time to do so has expired. For the reasons set forth below, the Court **ACCEPTS** and **ADOPTS** Magistrate Judge Pepe's Report and Recommendation.

Magistrate Judge Pepe properly concluded that Plaintiff's motions under Rule 60(b)(4) are untimely filed as more than seven years has elapsed between the entry of the July 24, 2001 Judgement and the filing of the present motions. The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Steven D. Pepe [**Docket No. 170, filed Aug. 3, 2009**] is **ACCEPTED** and **ADOPTED** as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion to Vacate Under Rule 60(b)(4) to Vacate the Voidable Judgment as Void [**Docket No. 164, filed Aug. 25, 2008**] is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's Motion to Vacate Under Rule 60(b)(4) to Vacate the Voidable Judgment as Void [**Docket No. 165, filed Aug. 25, 2008**] is **DENIED**.

S/Denise Page Hood

Denise Page Hood
United States District Judge

Dated: August 19, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record and Arthur Johnson, Reg. No. 191831, St. Louis Correctional Facility, 8585 N. Croswell, St. Louis, MI 48880 on August 19, 2009, by electronic and/or ordinary mail.

S/William F. Lewis

Case Manager